

regulated by this subchapter, and the enforcement procedures provided for under this subchapter.

(4) The research, surveys, studies, and publications referred to in this subsection may be conducted directly, or indirectly through grant or contract arrangements.

(b) Submission of annual report to Congress; contents

The Secretary shall submit annually a report to the Congress covering his administration of this subchapter for the preceding year, and including (1) an explanation of any variances or extensions granted under section 1030, 1057, 1083, or 1084 of this title and the projected date for terminating the variance; (2) the status of cases in enforcement status; (3) recommendations received from the Advisory Council during the preceding year; and (4) such information, data, research findings, studies, and recommendations for further legislation in connection with the matters covered by this subchapter as he may find advisable.

(c) Cooperation with Congress

The Secretary is authorized and directed to cooperate with the Congress and its appropriate committees, subcommittees, and staff in supplying data and any other information, and personnel and services, required by the Congress in any study, examination, or report by the Congress relating to pension benefit plans established or maintained by States or their political subdivisions.

(Pub. L. 93-406, title I, § 513, Sept. 2, 1974, 88 Stat. 896.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

REGULATIONS

Secretary authorized, effective Sept. 2, 1974, to promulgate regulations wherever provisions of this subchapter call for the promulgation of regulations, see section 1031 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1142 of this title.

§ 1143a. Studies by Comptroller General

(1) In general

The Comptroller General of the United States may, pursuant to the request of any Member of Congress, study employee benefit plans, including the effects of such plans on employees, participants, and their beneficiaries.

(2) Access to books, documents, etc.

For the purpose of conducting studies under this section, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(A) within the possession or control of the administrator, sponsor, or employer of and

persons providing services to any employee benefit plan, and

(B) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual or employer in making any information obtained under this section available to the public.

(3) Definitions

For purposes of this section, the terms "employee benefit plan", "participant", "administrator", "beneficiary", "plan sponsor", "employee", and "employer" are defined in section 1002 of this title.

(4) Effective date

The preceding provisions of this section shall be effective on April 7, 1986.

(Pub. L. 99-272, title XI, § 11016(d), Apr. 7, 1986, 100 Stat. 275.)

CODIFICATION

Section was enacted as part of the Single-Employer Pension Plan Amendments Act of 1986, and also as part of the Consolidated Omnibus Budget Reconciliation Act of 1985, and not as part of the Employee Retirement Income Security Act of 1974 which comprises this chapter.

§ 1144. Other laws

(a) Supersedure; effective date

Except as provided in subsection (b) of this section, the provisions of this subchapter and subchapter III of this chapter shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan described in section 1003(a) of this title and not exempt under section 1003(b) of this title. This section shall take effect on January 1, 1975.

(b) Construction and application

(1) This section shall not apply with respect to any cause of action which arose, or any act or omission which occurred, before January 1, 1975.

(2)(A) Except as provided in subparagraph (B), nothing in this subchapter shall be construed to exempt or relieve any person from any law of any State which regulates insurance, banking, or securities.

(B) Neither an employee benefit plan described in section 1003(a) of this title, which is not exempt under section 1003(b) of this title (other than a plan established primarily for the purpose of providing death benefits), nor any trust established under such a plan, shall be deemed to be an insurance company or other insurer, bank, trust company, or investment company or to be engaged in the business of insurance or banking for purposes of any law of any State purporting to regulate insurance companies, insurance contracts, banks, trust companies, or investment companies.

(3) Nothing in this section shall be construed to prohibit use by the Secretary of services or facilities of a State agency as permitted under section 1136 of this title.

(4) Subsection (a) of this section shall not apply to any generally applicable criminal law of a State.

(5)(A) Except as provided in subparagraph (B), subsection (a) of this section shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-51).

(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) of this section—

(i) any State tax law relating to employee benefit plans, or

(ii) any amendment of the Hawaii Prepaid Health Care Act enacted after September 2, 1974, to the extent it provides for more than the effective administration of such Act as in effect on such date.

(C) Notwithstanding subparagraph (A), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after January 14, 1983), but the Secretary may enter into cooperative arrangements under this paragraph and section 1136 of this title with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts 1 and 4 and the preceding sections of this part.

(6)(A) Notwithstanding any other provision of this section—

(i) in the case of an employee welfare benefit plan which is a multiple employer welfare arrangement and is fully insured (or which is a multiple employer welfare arrangement subject to an exemption under subparagraph (B)), any law of any State which regulates insurance may apply to such arrangement to the extent that such law provides—

(I) standards, requiring the maintenance of specified levels of reserves and specified levels of contributions, which any such plan, or any trust established under such a plan, must meet in order to be considered under such law able to pay benefits in full when due, and

(II) provisions to enforce such standards, and

(ii) in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement, in addition to this subchapter, any law of any State which regulates insurance may apply to the extent not inconsistent with the preceding sections of this subchapter.

(B) The Secretary may, under regulations which may be prescribed by the Secretary, exempt from subparagraph (A)(ii), individually or by class, multiple employer welfare arrangements which are not fully insured. Any such exemption may be granted with respect to any arrangement or class of arrangements only if such arrangement or each arrangement which is a member of such class meets the requirements of section 1002(1) and section 1003 of this title necessary to be considered an employee welfare benefit plan to which this subchapter applies.

(C) Nothing in subparagraph (A) shall affect the manner or extent to which the provisions of this subchapter apply to an employee welfare benefit plan which is not a multiple employer welfare arrangement and which is a plan, fund,

or program participating in, subscribing to, or otherwise using a multiple employer welfare arrangement to fund or administer benefits to such plan's participants and beneficiaries.

(D) For purposes of this paragraph, a multiple employer welfare arrangement shall be considered fully insured only if the terms of the arrangement provide for benefits the amount of all of which the Secretary determines are guaranteed under a contract, or policy of insurance, issued by an insurance company, insurance service, or insurance organization, qualified to conduct business in a State.

(7) Subsection (a) of this section shall not apply to qualified domestic relations orders (within the meaning of section 1056(d)(3)(B)(i) of this title), qualified medical child support orders (within the meaning of section 1169(a)(2)(A) of this title), and the provisions of law referred to in section 1169(a)(2)(B)(ii) of this title to the extent enforced by qualified medical child support orders.

(8) Subsection (a) of this section shall not be construed to preclude any State cause of action—

(A) with respect to which the State exercises its acquired rights under section 1169(b)(3) of this title with respect to a group health plan (as defined in section 1167(1) of this title), or

(B) for recoupment of payment with respect to items or services pursuant to a State plan for medical assistance approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] which would not have been payable if such acquired rights had been executed before payment with respect to such items or services by the group health plan.

(c) Definitions

For purposes of this section:

(1) The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) The term "State" includes a State, any political subdivisions thereof, or any agency or instrumentality of either, which purports to regulate, directly or indirectly, the terms and conditions of employee benefit plans covered by this subchapter.

(d) Alteration, amendment, modification, invalidation, impairment, or superseding of any law of the United States prohibited

Nothing in this subchapter shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States (except as provided in sections 1031 and 1137(c) of this title) or any rule or regulation issued under any such law.

(Pub. L. 93-406, title I, § 514, Sept. 2, 1974, 88 Stat. 897; Pub. L. 97-473, title III, §§ 301(a), 302(b), Jan. 14, 1983, 96 Stat. 2611, 2613; Pub. L. 98-397, title I, § 104(b), Aug. 23, 1984, 98 Stat. 1436; Pub. L. 99-272, title IX, § 9503(d)(1), Apr. 7, 1986, 100 Stat. 207; Pub. L. 101-239, title VII, § 7894(f)(2)(A), (3)(A), Dec. 19, 1989, 103 Stat. 2450, 2451; Pub. L. 103-66, title IV, § 4301(c)(4), Aug. 10, 1993, 107 Stat. 377.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(8)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1993—Subsec. (b)(7). Pub. L. 103-66, §4301(c)(4)(A), which directed the insertion in par. (7)(D) of “, qualified medical child support orders (within the meaning of section 1169(a)(2)(A) of this title), and the provisions of law referred to in section 1169(a)(2)(B)(ii) of this title to the extent enforced by qualified medical child support orders” before the period, was executed by making the insertion before the period at end of par. (7), to reflect the probable intent of Congress.

Subsec. (b)(8). Pub. L. 103-66, §4301(c)(4)(B), added par. (8) and struck out former par. (8) which read as follows: “Subsection (a) of this section shall not apply to any State law mandating that an employee benefit plan not include any provision which has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan, because that individual is provided, or is eligible for, benefits or services pursuant to a plan under title XIX of the Social Security Act, to the extent such law is necessary for the State to be eligible to receive reimbursement under title XIX of that Act.”

1989—Subsec. (b)(5)(C). Pub. L. 101-239, §7894(f)(2)(A), substituted “by such parts 1 and 4 and the preceding sections of this part” for “by such parts”.

Subsec. (b)(6)(B). Pub. L. 101-239, §7894(f)(3)(A), substituted “section 1002(1)” for “section 1002(l)”.

1986—Subsec. (b)(8). Pub. L. 99-272 added par. (8).

1984—Subsec. (b)(7). Pub. L. 98-397 added par. (7).

1983—Subsec. (b)(5). Pub. L. 97-473, §301(a), added par. (5).

Subsec. (b)(6). Pub. L. 97-473, §302(b), added par. (6).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7894(f)(2)(B) of Pub. L. 101-239 provided that: “The amendment made by this paragraph [amending this section] shall take effect as if included in section 301 of Public Law 97-473.”

Section 7894(f)(3)(B) of Pub. L. 101-239 provided that: “The amendments made by this paragraph [amending this section] shall take effect as if included in section 302 of Public Law 97-473.”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 9503(d)(2) of Pub. L. 99-272 provided that:

“(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall become effective on October 1, 1986.

“(B) In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before the date of the enactment of this Act [Apr. 7, 1986], the amendment made by paragraph (1) shall become effective on the later of—

“(i) October 1, 1986; or

“(ii) the earlier of—

“(I) the date on which the last of the collective bargaining agreements under which the plan is maintained, which were in effect on the date of the enactment of this Act, terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

“(II) three years after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-397 effective Jan. 1, 1985, except as otherwise provided, see section 303(d) of Pub.

L. 98-397, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 301(c) of Pub. L. 97-473 provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Jan. 14, 1983].”

Amendment by section 302(b) of Pub. L. 97-473 effective Jan. 14, 1983, see section 302(c) of Pub. L. 97-473, set out as a note under section 1002 of this title.

REGULATIONS

Secretary authorized, effective Sept. 2, 1974, to promulgate regulations wherever provisions of this subchapter call for the promulgation of regulations, see section 1031 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1994

For provisions setting forth circumstances under which any amendment to a plan required to be made by an amendment made by section 4301 of Pub. L. 103-66 shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 4301(d) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 1021 of this title.

TREATMENT OF OTHER STATE LAWS

Section 301(b) of Pub. L. 97-473 provided that: “The amendment made by this section [amending this section] shall not be considered a precedent with respect to extending such amendment to any other State law.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1114 of this title.

§ 1145. Delinquent contributions

Every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement.

(Pub. L. 93-406, title I, §515, as added Pub. L. 96-364, title III, §306(a), Sept. 26, 1980, 94 Stat. 1295.)

EFFECTIVE DATE

Section effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132, 1401, 1451 of this title; title 38 section 4318.

PART 6—GROUP HEALTH PLANS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 42 sections 1396a, 1396e.

§ 1161. Plans must provide continuation coverage to certain individuals**(a) In general**

The plan sponsor of each group health plan shall provide, in accordance with this part, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.